IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.430 OF 2005

Shri Prakash Dhondo Harmalkar
and Anr. .. .. Appellants

Versus

Shri Prakash Mahipatrao Vanjare
Kadam & Ors. .. .. Respondents

Mr.N.V.Bandiwadekar for appellants
None for respndents

CORAM : P.V.KAKADE, J.
DATE : 2ND AUGUST, 2005.

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by Addl. District Judge, Islampur dated 6.12.2003 dismissing the appeal and confirming the judgment and decree passed by Civil Judge, Junior Division, Islampur dated 20.7.1994

decreeing the suit for specific performance of the contract between the parties.

2. I have heard the learned counsel for the appellants. Perused the record.

3. The plaintiffs filed the suit for specific performance of contract between the parties in respect of the suit properties bearing Survey No.85 admeasuring 9 acres and 13 gunthas situated in village Uran Islampur. The defendant nos.1 to 3 were the owners of the suit land. On 5.1.1976 they had agreed to sell 5 Anna 4 paisa share in common from the said land for consideration of Rs.25,000/= and executed agreement to that effect. They have also executed supplementary agreement on 6.3.1978. Defendant nos.1 to 3 handed over possession of the suit land to the plaintiffs at the time of agreement and received amount of Rs.21,010/= from the plaintiffs. The only amount due against them was Rs.4,090/=. Inspite of repeated demand the consideration of the sale deed was not made, hence the suit for specific performance was filed. The defendants contested the suit on various grounds.

. The learned trial judge adjudicated the dispute on merits and came to the conclusion that the plaintiffs had proved that the suit agreement executed by the defendants in their favour and they were ready and willing to perform their part of contract and the defendants have committed the breach of contract and as such the suit came to be decreed. The appeal was carried out to the District Court. The Addl. District Judge after hearing both the parties confirmed the findings of the lower court and dismissed the appeal. Hence the present appeal.

4. At the outset, it may be noted that there is no substantial question of law involved in this appeal. The issues involved are purely based on factual aspects involved in the dispute, and therefore, I have no hesitation to hold that both the courts below have properly appreciated the factual aspect of evidence on record and decreed the suit. In the result no interference is called for and hence the appeal stands dismissed.

. Consequently Civil Application No.616 of 2004 also stands dismissed.